

**United States Bankruptcy Court
Central District of California
Santa Ana
Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, September 7, 2023

Hearing Room

5B

10:00 AM

8:00-000000

Chapter

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Docket 0

Tentative Ruling:

- NONE LISTED -

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8:22-11556 Stonebridge Ventures, LLC

Chapter 11

Adv#: 8:22-01093 Lewis et al v. Stonebridge Ventures, LLC et al

**#1.00 STATUS CONFERENCE RE: Complaint For Removal Of State Court Action
(cont'd from 6-29-23)**

Docket 1

Tentative Ruling:

Tentative for September 7, 2023
Continue to November 2, 2023 at 10:00 a.m.
Appearance is only required if date does not work.

Tentative for 6/29/23:
Settlement still pending? How long a continuance?

Tentative for 5/25/23:
Paragraph G in the status report suggests that settlement discussions are underway, but no timeline is given. While the court encourages settlement sometimes arbitrary deadlines help focus the discussions, and continuances are not unlimited. Are those necessary or advisable here?

Appearance: required

Tentative for 3/16/23:
Parties are still discussing the lien claim issue? Do the parties prefer the setting of discovery deadlines and scheduling of a pretrial conference at this time? Or is another continuance preferred?

Appearance: required

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Chapter 11

Tentative for 1/12/23:

It is not clear to the court why this matter should be tried in bankruptcy court instead of its original jurisdiction, the Riverside County Superior Court. Although title of estate property might be affected, adjudication of any legal issue affecting title and as to non-debtor parties could as well be determined there; no unique Title 11 issue appears. There is, however, the possibility of a §544 strongarm question regarding any "special lien" claim; but that is only hypothetical at this point. Moreover, the title issues may be at the threshold of mootness as the Trustee has moved to sell the subject property free of liens. There was no reply filed to this court's OSC re Remand/Abstention. Therefore, this court abstains from these issues and remands to Riverside Superior Court, but with the admonitions as described above. Mr. Polis is to submit an order.

Party Information

Debtor(s):

Stonebridge Ventures, LLC

Represented By
Summer M Shaw

Defendant(s):

Stonebridge Ventures, LLC

Pro Se

Joshua Raymond Pukini

Pro Se

Ryan Justin Young

Pro Se

Calpac Management, Inc

Pro Se

Edmund Valasquez, Jr.

Pro Se

Luna Construction Management,

Pro Se

Plaintiff(s):

Darryl Lewis

Represented By
Thomas J Polis

Sanna Akhtanova

Represented By

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CONT... Stonebridge Ventures, LLC

Chapter 11

Thomas J Polis

Trustee(s):

Arturo Cisneros (TR)

Represented By

Arturo Cisneros

Nathan F Smith

William Malcolm

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8:21-11703 DGWB, Inc.

Chapter 7

Adv#: 8:23-01070 Marshack v. Collins

#2.00 Defendant Edward Collins' Motion For Order Re: (I) Dismiss Plaintiffs Complaint For Failure To State A Cause Of Action Pursuant To FRCP/FRBP 12(B) (6)/7012(B); (Ii) More Definite Statement Pursuant To FRCP/FRBP 12(E)/7012; (Iii) Plaintiffs Failure To Plead Fraud With Particularity Pursuant To FRCP/FRBP 9/7009; And (Iv) Plaintiffs Failure To Conduct Pre-Filing Due Diligence As Required By Section 547 Of The Bankruptcy Code

Docket 9

Tentative Ruling:

Tentative for September 7, 2023

Items 2-5 are virtually identical. Therefore, this single memorandum will deal with all.

A. Background

These are Defendant Edward Collins, Michael Weisman, Jimmy Smith, Amusement Park Entertainment, LLC, Slingshot People, LLC, Jarrell R. Smith, Devin F. Smith, Sequel Smith (may be the same as Jimmy Smith) and Deidre M. Smith's motions for order dismissing plaintiff's complaint based on the following alleged factual and legal defects: (I) pursuant to Rule 12(b)(6) of the FRCP/FRBP 7012 for failure to state a claim; (II) for a More Definite Statement pursuant to Rule 12(e) ; (III) Plaintiff's failure to plead fraud with sufficient particularity as required by Rule 9 ; and (IV) Plaintiff's failure to conduct pre-filing due diligence as required by § 547 of the Bankruptcy Code (collectively "Motion to Dismiss").

Debtor DWBG, Inc. ("Debtor") filed its chapter 7 bankruptcy on July 8, 2021. On July 7, 2023, Chapter 7 Trustee Richard A. Marshack commenced separate adversary cases against Edward Collins, Jimmy Smith et al, Michael Weisman (through the Weisman Family Trust), and Jarell R. Smith et al ("Defendants"). Each defendant has separately filed a motion to dismiss pursuant to Rule 12(b)(6) of the FRCP, which will be analyzed by this court together given they are nearly identical. Aside from the minor differences

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discussed below, the court's ruling will apply to all Defendants' motions to dismiss.

B. Applicable Legal Standard

When considering a motion under FRCP 12(b)(6), a court takes all the allegations of material fact as true and construes them in the light most favorable to the nonmoving party. *Parks School of Business v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1995). A complaint should not be dismissed unless a plaintiff could prove no set of facts in support of his claim that would entitle him to relief. *Id.* Motions to dismiss are viewed with disfavor in the federal courts because of the basic precept that the primary objective of the law is to obtain a determination of the merits of a claim. *Rennie & Laughlin, Inc. v. Chrysler Corporation*, 242 F.2d 208, 213 (9th Cir. 1957).

"While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 554-556 (2007). A complaint must contain sufficient factual matter to state a claim to relief that is plausible on its face. *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) citing *Twombly*. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.* The plausibility standard asks for more than a sheer possibility that a defendant has acted unlawfully. *Id.* The tenet that a court must accept as true all factual allegations is not applicable to legal conclusions. *Id.*

1. First Claim for Relief

The first claim for relief (except for *Marshack v. Smith* et al) concerns recovery of unlawful shareholder distributions against the Defendants pursuant to Cal. Corp. Code §§ 501, 506 and 316 that were allegedly made when Debtor was insolvent. The complaints allege that Jimmy Smith, Michael Weisman (through the Weisman Family Trust) and Edward Collins are shareholders of Debtor and members of the Debtor's Board of Directors. In

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the complaints, it is further alleged that Plaintiff conducted an examination of Debtor's financial records and concluded that Debtor was insolvent by no later than January 1, 2019. There were allegedly a significant number of actions pending against Debtor as of the petition that had been piling up since 2019, and Debtor was not meeting its obligations as they came due since then. Plaintiff asserts that based on the information in the Debtor's tax returns, Debtor allegedly paid the following dividends to shareholders who were also members of the Board of Directors: (a) \$95,416 to the Weisman Family Trust (b) \$48,132 to Edward Collins; and (c) \$48,132 to Jimmy Smith. This information allegedly came directly from the K-1 statements for Debtor's three shareholders attached to its tax return.

Defendants contend in the motions to dismiss that the first claim for relief contains conclusory allegations that fail to set forth the specific dates, component amounts or method of payment for the total dividends received by each Debtor's shareholders during 2020. Plaintiff argues in his opposition that while this is true, there is no case law provided by Defendant that requires these specific details exist to survive a motion to dismiss. Plaintiff also contends that further information cannot be provided because he only has access to what is stated in Debtor's 2020 tax return that Debtor produced to him. Upon examination of Debtor's bank accounts, it is also unclear to Plaintiff which of the many individual payments made by the Debtor to each of the shareholders during the year 2020 comprise the total dividends they each received (at least not without further discovery). Finally, Plaintiff asserts that the specific information Defendant argues is missing should already be in the possession of the shareholders as they are the parties that would have approved, authorized payment to and received the dividends.

The court agrees with Plaintiff that the allegations stated in the complaint are well sufficient to meet the plausibility standard under *Twombly*. Cal. Corp. Code § 501 prohibits a corporation from making any distributions to the corporation's shareholders if the corporation is, or as a result of such distributions would be, likely to be unable to meet its liabilities as they mature. Cal. Corp. Code § 501. Under Cal. Corp. Code § 506, shareholders who received unlawful distributions under § 501 with knowledge of facts is liable to the corporation for the distribution received for the benefit of all creditors. Cal. Corp. Code § 506. Further, Cal. Corp. Code § 316(a) and (d) provide that a

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director of a corporation who approves unlawful distributions to shareholders under § 501 is jointly and severally liable to the corporation for all such illegal distributions made to all shareholders. The allegations stated above in the complaint clearly lay out these required elements of the statutes, where the court can reasonably infer that Defendants may be liable for the unlawful shareholder distributions. The specific dates, component amounts or method of payment are all information that will be revealed through the discovery process and are unnecessary to survive a motion to dismiss, especially since Plaintiff has limited access to additional information. It is not required under *Twombly* that Plaintiff prove their case in the complaint with all evidence and the facts presented to the court. So long as the court could reasonably interpret Defendants as liable for the alleged misconduct, as is here, then Plaintiff has nothing further to show at this point. Consequently, the court denies the motions on this first claim for relief.

2. Second Claim for Relief

The second claim for relief is for avoidance and recovery of payments made by Debtor to Defendants (not including *Marshack v. Smith et al*) during the two-year period of time preceding the petition date as constructively fraudulent transfers pursuant to 11 U.S.C § § 544(b) and 548(a)(1)(B).

Defendants in their motions assert that the second claim for relief fails to meet the heightened pleading requirement under FRCP 9(b) as it does not state with particularity the circumstances of fraud or mistake. Plaintiff opposes as case law clearly holds that a cause of action to recover a constructively fraudulent transfer is not subject to the heightened pleading requirement of Rule 9(b). See *In re Actrade Fin. Tech, Ltd.*, 337 B.R. 791, 801-802 (Bankr. S.D. N.Y. 2005) (where the court found that the majority of cases hold that since a cause of action based on constructive fraud does not require proof of fraud, the heightened pleading requirements of Rule 9(b) are not applicable); *In re Norvergence, Inc.*, 405 B.R. 709, 746 (Bankr. D. N.J. 2009).

Plaintiff further argues that he has adequately pled the required elements of § 548(a)(1)(B), as he has alleged Debtor's insolvency; that Debtor was not meeting its debts as they came due from no later than January 1, 2019; and that examination of Debtor's books and records

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revealed that as Debtor's insolvency deepened, the amount of funds taken from Debtor by insiders significantly increased. It is for these reasons that Plaintiff argues it is likely that there was a constructively fraudulent transfer, as Defendants did not provide Debtor with reasonably equivalent value for the funds received during the two-year period of time preceding the petition date. Plaintiff does offer in each opposition to provide the date, amount, and payment method for certain transfers that the bank records reveal Defendants received from Debtor from January 1, 2020, to the petition date of July 8, 2021. Moreover, he reportedly planned on producing this information during the initial disclosures in discovery anyway. But what already appears is adequate to survive a Rule 12 motion; however, since Plaintiff apparently plans to amend anyway, as discussed below, it would not hurt to include these in the complaint.

Plaintiff additionally requests that the court grant leave to amend the second cause of action to correct an inadvertent error in the amount seeking to recover. Plaintiff's proposed amendment to the second and third causes of action in his Complaint would change the amounts sought to be recovered to: (1) the \$48,132.00 of shareholder distributions that Edward Collins received during 2020; (2) \$232,313.51 that the Debtor's bank records reveal Mr. Collins received from the Debtor during the period of January 1, 2020, to the petition date of July 8, 2021; and (3) the portion of Mr. Collins' \$250,685.00 of 2019 W-2 wages (as revealed by his Schedule K-1 attached to the Debtor's 2019 tax return) that were paid to him during the period of July 7, 2019 to December 31, 2019. Plaintiffs also seeks amendment under its complaint against Defendant Jimmy Smith to include an additional \$57,350 paid by Debtor to Smith during 2020 as revealed on Debtor's bank statements that Plaintiff possesses.

The court agrees that the heightened pleading requirement under FRCP 9(b) is not applicable to this cause of action, as Plaintiff claims constructively fraudulent transfers under § 548(a)(1)(B). The case law is sound on this point that proof of actual fraud is not required to invoke Rule 9. Therefore, when taking the allegations as true and interpreting them in the light most favorable to Plaintiff, the court can infer constructively fraudulent transfers to Defendants because Plaintiff has alleged a transfer of monies while Debtor was insolvent made to Defendants for no consideration. This is supported by

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the results from Plaintiff's investigation of Debtor's tax returns in 2020 and other bank accounts and records. The court also takes no issue in allowing Plaintiff to amend the inadvertent discrepancies in its complaints regarding the amount of recovery. Thus, the court denies the motions to dismiss per this claim for relief.

3. Third Claim for Relief

The third claim for relief in the complaint is for the avoidance and recovery of payments made by Debtor to Defendants during the two-year period of time preceding the petition date as actual fraudulent transfers pursuant to 11 U.S.C. § 544(b) and 548(a)(1)(A). It is undisputed that the heightened pleading requirement of Rule 9(b) does apply to this cause of action, unlike the previous one.

The Ninth Circuit held in *In re Lui*, 646 Fed. Appx. 571, 573 (9th Cir. 2016) that "Rule 9(b) demands that allegations of fraud 'be specific enough to give defendants notice of the particular misconduct ... so that they can defend against the charge and not just deny that they have done nothing wrong.'" *Lui*, 464 Fed. Appx. at 573. According to the *Actrade* court, because fraudulent intent in the context of an intentionally fraudulent transfer is difficult to prove, courts have developed certain badges of fraud to establish the intent of the defendant to "hinder, delay or defraud" creditors. *Actrade*, 337 B.R. at 809. The failure to plead specific allegations setting forth such badges of fraud in a complaint can be fatal to the cause of action upon a motion to dismiss. *Id.* The common badges of fraud implying intent include: (1) lack or inadequacy of consideration; (2) the family, friendship or close associate relationship between the parties; (3) the retention of possession, benefit or use of the property in question; (4) the financial condition of the party sought to be charged both before and after the transaction in question; (5) the existence or cumulative effect of a pattern or series of transactions or course of conduct after the incurring of debt, onset of financial difficulties, or pendency or threat of suits by creditors; (6) the general chronology of the events and transactions under inquiry; (7) a questionable transfer not in the usual course of business; and (8) the secrecy, haste, or unusualness of the transaction. *Id.*

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Plaintiff argues, and the court agrees that all eight badges of fraud have been established. First, Debtor was conducting little business in 2018, indicating inadequate consideration for the transfers. Second, there was a special relationship existing between Debtor and the transferees as directors and shareholders of the Debtor. Third, the Defendants have retained the transfers made to them by the Debtor. Fourth, the Defendants' financial condition improved as they received significant dividends and payments from the Debtor. Fifth, Plaintiff contends there was a pattern or series of transaction or course of conduct after the incurring debt, onset of financial difficulties and pendency of threat of lawsuits by creditors. Sixth, the general chronology of events shows fraudulent intent because as Debtor's insolvency deepened, the amount of funds taken by insiders significantly increased. Finally, these transfers were allegedly unusual and not in the ordinary course of business for the same reasons stated previously. It is also well established by Plaintiff that it alleged insolvency of the Debtor since January 1, 2019, and cumulating lawsuits against it. Although most of what is presented is speculative at this point, Plaintiff as Chapter 7 Trustee is afforded more leniency when the court weighs sufficiency of the complaint, as a trustee is considered "an outsider to the transaction who must plead fraud from second-hand knowledge." *In re Vaugh Co., Realtors*, 477 B.R. 206, 217 (Bankr. D. NM 2012). Plaintiff has been assigned to this case and was not present when the alleged transfers and events that led to the bankruptcy occurred. Nevertheless, based on his investigation of the Debtor's books and records, as well as its tax returns from 2020, Plaintiff was able to piece together the issues and present allegations that the court finds sufficient for the purposes of a cause of action under 11 U.S.C. § 544(b) and 548(a)(1)(A).

4. Fourth Claim for Relief

The fourth claim for relief is for the avoidance and recovery of transfers made to Defendants as preferences by the Debtor during the one-year period of time preceding the petition date, plus any portion of the 2020 shareholder dividend received by Defendants during the period of July 7, 2020, to December 31, 2020. This particular cause of action does involve fraud or mistake, so FRCP Rule 8(a)(2) requiring a "short and plain statement of the claim..." is the standard of review.

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Plaintiff argues that it has consistently pled the Debtor's insolvency; the fact that it was not meeting its debts as they came due from no later than January 1, 2019, to all times thereafter; and that Defendants were "insiders" of the Debtor. Plaintiff also alleges that Defendants were creditors of Debtor, and the transfers made were on account of an antecedent debt owed to them, and in an amount greater than what they would have received in a chapter 7 case had the transfers not been made. Plaintiff does not dispute that he has not stated the date, amount, and manner of each of the transfers, but contends that there is no authority requiring him to do so and is planning on providing this information in the initial disclosures. The court sees no particular reason to require amendment to include these specifics as Plaintiff has adequately laid out the elements required under § 547(b).

Defendants further dispute that Plaintiff has failed to comply with the part of § 547(b) that requires a trustee to conduct "reasonable due diligence in the circumstances of the case" and to consider "a party's known or reasonably knowable affirmative defenses" under § 547(c) prior to filing a complaint to avoid and recover a preference. Plaintiff answers this contention, arguing that he considered all the alleged facts and findings upon his investigation in evaluating whether Defendants could claim that the insider preference payments received would be protected from avoidance by § 547(c) defenses. However, in light of the allegations that Debtor did very little business in 2018, that Debtor and insiders were commingling client funds given to them in trust, and that Debtor's insiders were taking progressively larger payments as the insolvency worsened, Plaintiff concluded that § 547(c) defenses would not protect Defendants. The court see no basis to contradict that position in these motions.

Plaintiff seems to have investigated this case thoroughly with the limited resources and documents available prior to filing these adversary complaints and asserting this cause of action. There is enough here for the court to infer a potential preferential transfer, given the allegations repeatedly made throughout the complaint. The court is confident that both parties will provide further factual details in the initial disclosures and will cooperate throughout the discovery process. The motions are denied as to this cause of action for avoidance and recovery of preferential transfers under 11 U.S.C § 547(b).

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5. Fifth Claim for Relief

Admittedly, Plaintiff asserts that its fifth claim for relief to recover and preserve any avoided transfers pursuant to 11 U.S.C. §§ 550(a) and 551 is almost entirely conclusory rather than factual averments, but follow as the remedy for avoided transfers which are the subject of the other claims. Aside from the general contentions of a lack of specificity, there are no objections by Defendants to this cause of action. Indeed, these statutes are consequential from the previous avoidance claims and do not require any additional facts to be presented in order to survive the motions to dismiss. The court denies the motions with respect to this claim for relief.

6. Sixth Claim for Relief

The sixth claim for relief seeks to recover damages from Defendants (not including *Marshack v. Smith* et al) for breach of California's "trust fund doctrine" imposed on a corporation's directors upon the company's insolvency. *Berg & Berg Enterprises, LLC v. Boyle*, 178 Cal. App.4th 1020, 1032 100 Cal.Reptr.3d 875 (2009). Specifically, upon insolvency, California law imposes a duty upon the insolvent corporation's directors to treat all assets as a trust fund for the benefit of the company's creditors, and requires them to avoid actions that divert, dissipate, or unduly risk the company's assets, including acts of self-dealing or preferential treatment of creditors. *Id.* Aside from the general contentions that the claims have not been pled with factual detail, there are no objections by Defendants to this cause of action.

Plaintiff contends, and the court concurs, that there are sufficient facts alleging that Debtor was insolvent in 2019, and up until the bankruptcy filing in 2021, there were consistent payments made to insiders and dividends to the shareholders who also functioned as members of the board of directors. These allegations are based on investigation of Debtor's bank accounts and tax returns in 2020 and provide the court with a reasonable inference that Defendants could be liable under the California "trust fund doctrine" with the *Twombly* standard.

7. Seventh Claim for Relief

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The final claim for relief in the complaints seeks to recover damages from Defendants for unjust enrichment based on receipt of various transfers described above, as Defendants allegedly provided no consideration for the transfers received. This is based on the following alleged facts: (a) Debtor's customers would pay to directly pay media sources the costs of the customer's advertisements, but these funds were commingled with Debtor's own funds used to pay off any debts and make large payments to insiders, and (b) investigation of Debtor's books and records revealed that as Debtor's insolvency deepened, the amount of funds taken by insiders from Debtor significantly increased. There are no specific objections to this claim for relief, other than the general contentions that the complaints lack factual detail.

Taken as true, it is plausible to infer within the *Twombly* guidelines unjust enrichment based on the allegations stated that that Defendants paid themselves dividends and separate funds for no consideration. The court denies the motions as to this last claim for relief.

8. Additional Claim for Relief re: *Marshack v. Smith, II et al*

In *Marshack v. Smith, II et al* (8:23-ap-01072-TA), Plaintiff asserts another claim for relief, distinct from the other adversary complaints, for the avoidance of an authorized post-petition transfer of property of the estate to initial transferee Jimmy Smith under 11 U.S.C. § 549. In the complaint, Plaintiff alleges that Jimmy Smith, as a stockholder of the Debtor, CCO, member of the Board of Directors, and insider of the Debtor, withdrew \$200,000 of Debtor's funds from its bank account without authorization of the court on July 14, 2021 (six days post-petition). Plaintiff further alleges that some or all of this amount has been transferred to one or more of the Defendants, allowing Plaintiff to avoid and recover these funds pursuant to § 550(a)(2) as subsequent transferees.

There are no specific objections to this claim for relief, but Plaintiff offers additional factual information should the court find that the requirements of Rule 8(a)(2) are not met. The additional information includes allegations that: (a) Debtor's bank records for Pacific Premier Bank, account No. 800010190 disclose that \$200,000 had been in the account for about two months prepetition; (b) Debtor disclosed on its Schedule A/B that this account

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contained only \$6,750 on the petition; and (c) Debtor's July 2021 bank account statement shows that Smith withdrew \$200,000 from the account by single wire transfer.

While Defendants have not objected to this particular claim for relief, the additional information provided by Plaintiff bolsters the allegations stated in the complaint. With the additional information provided in an amended complaint, plausibility under *Twombly* will certainly be met to show under § 549 that an unauthorized post-petition transfer of property of the estate in the amount of \$200,000 could have been made by Defendant.

The court denies the motion to dismiss per this claim for relief, and grants Plaintiff's request to amend the complaint to include the above-stated additional information.

Appearance required.

Party Information

Debtor(s):

DGWB, Inc.

Represented By
Thomas J Polis

Defendant(s):

Edward Collins

Represented By
Thomas J Polis

Plaintiff(s):

Richard A Marshack

Represented By
Christopher Minier

Trustee(s):

Richard A Marshack (TR)

Represented By
David M Goodrich

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8:21-11703 DGWB, Inc.

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Adv#: 8:23-01071 Marshack v. Weisman et al

#3.00 Defendant Michael Weisman's Motion For Order Re: Dismiss Plaintiff's Amended Complaint For Failure To State A Cause Of Action Pursuant To FRCP/FRBP 12(b)(6) 7012(b); (ii) More Definite Statement Pursuant To FRCP/FRBP 12(e)/7012; (iii) Plaintiff's Failure To Plead Fraud With Particularity Pursuant To FRCP/FRBP 9.7009; And (iv) Plaintiff's Failure To Conduct Pre-Filing Due Diligence as Required By Section 547 Of The Bankruptcy Code

Docket 12

Tentative Ruling:

Tentative for September 7, 2023

See #2

Appearance required.

Party Information

Debtor(s):

DGWB, Inc.

Represented By
Thomas J Polis

Defendant(s):

Michael Brandt Weisman

Represented By
Thomas J Polis

The Weisman Family Trust

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Christopher Minier

Trustee(s):

Richard A Marshack (TR)

Represented By
David M Goodrich

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Chapter 7

Adv#: 8:23-01072 Marshack v. Smith, II et al

#4.00 Defendants Jimmy Smith, Amusement Park Entertainment, LLC and Slingshot People, LLC's Motion For Order Re: (I) Dismiss Plaintiffs Complaint For Failure To State A Cause Of Action Pursuant To FRCP/FRBP 12(B)(6)/7012(B); (li) More Definite Statement Pursuant To FRCP/FRBP 12(E)/7012; (lii) Plaintiffs Failure To Plead Fraud With Particularity Pursuant To FRCP/FRBP 9/7009; And (Iv) Plaintiffs Failure To Conduct Pre-Filing Due Diligence As Required By Section 547 Of The Bankruptcy Code

Docket 10

Tentative Ruling:

Tentative for September 7, 2023

See #2

Appearance required.

Party Information

Debtor(s):

DGWB, Inc.

Represented By
Thomas J Polis

Defendant(s):

Jimmy Rodney Smith

Represented By
Thomas J Polis

Amusement Park Entertainment,

Represented By
Thomas J Polis

DGWB Ventures, LLC

Pro Se

Slingshot People, LLC

Represented By
Thomas J Polis

Amusement Park Capitaux, LLC

Pro Se

Amusement Park, LLC

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, September 7, 2023

Hearing Room

5B

11:00 AM

CONT... DGWB, Inc.

Chapter 7

Plaintiff(s):

Richard A Marshack

Represented By
Christopher Minier

Trustee(s):

Richard A Marshack (TR)

Represented By
David M Goodrich

**United States Bankruptcy Court
Central District of California
Santa Ana
Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, September 7, 2023

Hearing Room

5B

11:00 AM

8:21-11703 DGWB, Inc.

Chapter 7

Adv#: 8:23-01073 Marshack v. Smith et al

#5.00 Defendants Jarrell R. Smith, Devin F. SMith, Sequel Smith, And Deirdre M. Smith's Motion For Order Re: (i) Dismiss Plaintiff's Amended Complaint For Failure To State A Cause Of Action Pursuant To FRCP/FRBP 12(b)(6)/7012(b);(ii) More Definite Statement Pursuant To FRCP/FRBP 12(e)/7012; (iii) Plaintiff's Failure To Plead Fraud With Particularity Pursuant To FRCP/FRBP 9/7009; And (iv) Plaintiff's Failure To Conduct Pre-Filing Due Diligence As Required By Section 547 Of The Bankruptcy Code

Docket 12

Tentative Ruling:

Tentative for September 7, 2023

See #2

Appearance required.

Party Information

Debtor(s):

DGWB, Inc.

Represented By
Thomas J Polis

Defendant(s):

Jarrel Ryan Smith

Represented By
Thomas J Polis

Devin Farand Smith

Represented By
Thomas J Polis

Jimmy Rodney Smith Jr.

Represented By
Thomas J Polis

Deirdre Monique Smith

Represented By
Thomas J Polis

Plaintiff(s):

Richard A Marshack

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, September 7, 2023

Hearing Room

5B

11:00 AM

CONT... DGWB, Inc.

Chapter 7

Christopher Minier

Trustee(s):

Richard A Marshack (TR)

Represented By
David M Goodrich